IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 423 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ASHOK SOLANKI S/O MOHANLAL TULSIDAS SOLANKI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 423 of 2000

MR JB DASTOOR for Petitioner No. 1

MR ASHOK M SOLANKI for Petitioner No. 1

MR PR ABICHANDANI, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 10/10/2002

ORAL JUDGEMENT

This Criminal Revision is preferred against

judgement and order rendered by Additional Sessions Judge, Kutch at Bhuj in Criminal Appeal No.69 of 1997 on 5.10.2000, dismissing appeal and confirming the judgement and order of learned Chief Judicial Magistrate, Kutch at Bhuj in Criminal Case No. 323 of 1994, rendered on July 21, 1997, convicting the present revisioner for offences punishable under Sections 415, 468, 511 and 471, read with Section 511 of IPC. He has been sentenced to undergo simple imprisonment for a period of six months and to pay fine of Rs. 100/- for each of the offence, in default to undergo further SI for a period of 10 days for each of the default.

2. The facts of the case in brief can be stated thus:

2.1 A complaint came to be lodged by Chief Manager, Bank of Baroda, Bhuj Branch, against the present revisioner alleging that he had attempted to cheat the Bank by forging a cheque in his saving Bank Account No. 16162. The cheque was got examined and it was found that it was forged by enhancing the amount of cheque. The trial Court, after considering the evidence led by the prosecution, came to a conclusion that the charges were proved and therefore, recorded conviction. The Appellate Court also confirmed the conviction and hence, this revision by the convict.

3. While admitting this revision application, it was clarified that Rule is issued only with regard to sentence part of the order impugned herein.

4. Heard learned Advocate Mr. Dastur on the question of quantum of sentence. Mr. Dastur submitted that the revisioner is an Advocate who has no criminal antecedence, he has suffered from social isolation and sympathy may be shown. Mr. Dastur submitted that the revisioner has already undergone a sentence of about 2 months and therefore, sympathy may be shown.

5. Learned Additional Public Prosecutor Mr. P.R. Abichandani has opposed to this revision application. According to him revisioner who is a practising Advocate has indulged in a pre-planned and pre-meditated crime. Social isolation or other sufferings cannot justify the action of the revisioner. He belongs to a noble profession and exemplary behaviour is expected of him, instead he had indulged in criminal activities and therefore does not deserve any sympathy and the revision may be dismissed.

6. The only question that requires to be considered by this Court is whether the sentence awarded by the trial Court and confirmed by the Appellate Court deserves any interference in exercise of revisional powers. The only ground that is canvassed is that the revisioner is an Advocate and has suffered because of social isolation. Apart from this submission, the judgement of the Appellate Court reflects that the revisioner is a neglected person and appears to be mentally broken. He has even gone to the extent of using offending language qua the Chief Judicial Magistrate, but the Court below has taken a sympathetic view of the matter and has not initiated any legal action.

7. Taking an overall view of the matter, it appears that the revisioner though practicing as an Advocate, has suffered isolation, and the act is committed by him. It also appears that he is not keeping good health. Taking an overall view of the matter, ends of justice would be met if the sentence is reduced to 4 months simple imprisonment with no change in the fine. The revision application is allowed to that extent. The conviction is confirmed. The sentence part is modified and revisioner is ordered to undergo simple imprisonment for a period of 4 months for each of the offence. The sentences to run concurrently. There shall be no change in the fine. The revisioner shall be given set-off for the sentence already undergone. The revisioner shall surrender to the custody on or before 19th October, 2002, failing which appropriate action will be taken to take him into custody by the Court below. Rule made absolute.

(A.L.Dave, J.)

*/Mohandas